REMARKS

I. Summary of the Office Action and Status of the Claims

In the office action mailed June 23, 2010, claims 3-18 stand rejected under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter. Further, claims 3-18 also stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over U.S. Patent No. 6,636,499 (Dowling) in view of U.S. Patent No. 6,219,703 (Nguyen).

In this response, Applicant has amended claims 3, 4, 6-9, and 13 and added new claims 19-22. These amendments and new claims are generally supported by the application. Thus, now pending are claims 3-22. Of the pending claims, claims 3, 8, and 14 are independent and the remaining claims are dependent.

II. Rejections under 35 U.S.C. § 101

The Examiner alleged that claims 3-18 were "not limited to tangible embodiments," and "do not feature any physical attributes." Thus, the Examiner rejected the claims as being directed to non-statutory subject matter. Applicant respectfully disagrees with the basis of this rejection, because the claimed subject matter met the requirements of the machine or transformation test.

In the recent *Bilski v. Kappos* decision, the Supreme Court held that "the machine-or transformation test is a useful and important clue, an investigative tool, for determining whether some claimed inventions are processes under §101." U.S. Supreme Court Slip Opinion No. 08–964 (June 28, 2010), at 8. Under this test, "an invention is a 'process' only if: (1) it is tied to a particular machine or apparatus, or (2) it transforms a particular article into a different state or thing." *Id.* at 6. However, laws of nature, physical phenomena, and abstract ideas fall outside of 35 U.S.C. § 101. *Id.* at 5.

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Claims 3, 8, and 14 involve the use of particular machines, specifically an NMS and an agent. Figure 3, which "depicts a functional block system showing the updating system", indicates that the "manager 200" (described in the specification as "NMS 200") and the "agent 100" are computing devices. Figure 3 is reproduced herein for the Examiner's convenience:

Fig. 3

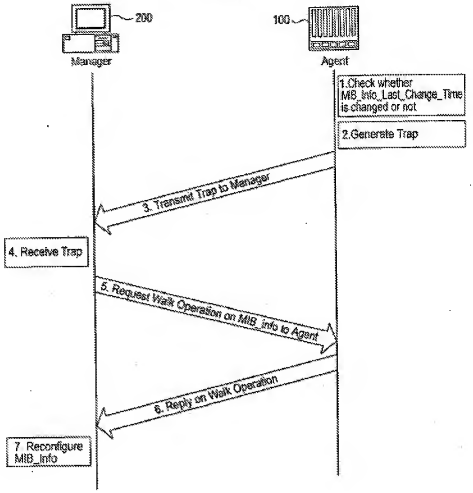

Figure 3. *See also* Figure 2.

Further, at least Figure 3 shows the manager and the agent communicating traps, requests and replies. Thus, the claims explicitly recite physical attributes, and meet the machine prong of the machine or transformation test.

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Like process claims 3 and 8, claim 14 is a system claim that comprises a "network management system (NMS)." Therefore, claim 14 corresponds to a "machine" under 35 U.S.C. § 101 and is clearly statutory.

Additionally, due at least in part to their being tied to particular machines, none of claims 3, 8, and 14 are directed to laws of nature, physical phenomena, or abstract ideas.

Therefore, Applicant submits that claims 3, 8, and 14 as amended meet the statutory subject matter requirements of 35 U.S.C. § 101. Applicant further submits that all dependent claims also meet these requirements for at least the reason that they depend from a claim that is directed to statutory subject matter. Accordingly, Applicant respectfully requests that the Examiner reconsider and withdraw the rejections of claims 3-18 under 35 U.S.C. § 101.

III. Rejections under 35 U.S.C. § 103(a)

As discussed above, claims 3-18 were rejected as being allegedly unpatentable under 35 U.S.C. § 103(a) over Dowling in view of Nguyen. Applicant submits that the Examiner has failed to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a). In particular, Applicant respectfully disagrees with the basis of this rejection of the claims, because the claimed subject matter does not reasonably or logically follow from Dowling and Nguyen. To that point, each of the independent claims includes features that are not taught or suggested by these references, either alone or in combination.

a. Claims 3 and 14 are patentably distinguishable over Dowling and Nguyen

Applicant's claim 3 recites, in part:

> receiving a trap message from an agent, the agent management information base (MIB) information associated therewith; and
>
> in response to receiving the trap message, transmitting to the agent a request to perform a walk operation, wherein the walk

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> operation facilitates automatic update of the MIB information associated with the agent.

Dowling states that,

> [r]eferring now to FIG. 6, an exemplary SNMP network 84 is shown. The SNMP agent 86 in network device 88 gathers data from the MIB 90, also in network device 88. The MIB 90 is the repository for information about device parameters and network data. The SNMP agent 86 can send traps, or notification of certain events, to the SNMP manager 92, which is part of the Network Management Software ("NMS") 94 running on the management console 96. The SNMP manager 92 uses information in the MIB 90 to perform the operations described in Table 1.

Dowling, col. 9, lines 5-14. Further, table 1 of Dowling discloses several SNMP manager operations, including "Get-request", "Get-next-request", "Get-response", "Set-request", and "trap". *See* Dowling, Table 1 (col. 9, lines 16-29).

However, Dowling's disclosure does not teach or suggest "in response to receiving the trap message, transmitting to the agent a request to perform a walk operation" as recited in amended claim 3. As quoted above, Dowling states that "[t]he SNMP agent 86 can send traps, or notification of certain events, to the SNMP manager 92," and that "[t]he SNMP manager 92 uses information in the MIB 90 to perform the operations described in Table 1." Dowling, col. 9, lines 6-7 and lines 12-14. However, Dowling does not disclose or suggest the SNMP manager perform any operations (*e.g.,* Table 1 operations) in response to receiving the traps. In fact, Dowling does not disclose any relationship between the reception of traps at the SNMP manager and the SNMP manager performing the Table 1 operations.

Further, the Table 1 operations do not include "transmitting to the agent a request to perform a walk operation on the MIB" as recited in amended claim 3. Therefore, Applicant submits that Dowling does not teach or suggest "in response to receiving the trap message, transmitting to the agent a request to perform a walk operation, wherein the walk operation

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facilitates automatic update of the MIB information associated with the agent" as recited in claim 3. Applicant further submits that Nguyen does not make up for this deficiency in Dowling.

Regarding the "walk operation" the Examiner relied on Dowling at column 23, lines 50-55 to support rejection of claim 3. *See* Office Action, p. 3. In the cited passage, Dowling states:

> When all neighbors have been processed, the commander walks the neighbor linked list again. Each neighbor of that member which still has the age field set to "1" is deleted. When a Remove Neighbor information is received from a member, the commander removes all the neighbors from its cache listed in this message.

Thus, the Examiner has alleged that the "walk" of "neighbor linked list" in Dowling corresponds to the "walk operation on the MIB" recited in claim 3. However, Dowling teaches that this linked list is actually used in Cisco Discovery Protocol (CDP) operations. For example, Dowling states, at column 15, lines 14-19, that:

> [u]sing CDP, each network device sends periodic messages to a multicast address, and listens to the periodic messages sent by others in order to learn about neighboring devices and determine when their interfaces to the media go up or down. CDP runs over the data link only, and does not run on top of any network layer.

Further, Dowling also states, at column 10, lines 44-51 that:

> [o]nce the commander switch has been enabled, it can use information known about the network topology to identify other network devices in the network that may be added to the cluster. According to one embodiment of the present invention, the commander switch uses the [CDP] to automatically identify candidate network devices.

Dowling does not disclose the CDP linked list is a Management Information Base (MIB); rather, Dowling merely discloses that that CDP linked list is used to identify neighboring devices in a cluster of devices.

Therefore, Applicant submits that Dowling does not teach or suggest a "walk operation, wherein the walk operation facilitates automatic update of the MIB information associated with

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the agent." Applicant further submits that Nguyen does not make up for this deficiency in Dowling.

Claim 14 recites in part, "the NMS is configured to receive a trap message from an agent that has access to an agent MIB, in response to receiving the trap message, conduct a walk operation on the agent MIB, and based on a result of the walk operation, update the NMS MIB." Regarding at least these quoted features of claim 14, Applicant submits that the comments made above for claim 3 apply equally to claim 14. Thus, Applicant submits that Dowling and Nguyen do not disclose or suggest the subject matter of claim 14 and thus do not support rejection of claim 14 under 35 U.S.C. § 103. Applicant further submits that the Examiner has failed to make a *prima facie* case that claim 14 is unpatentable, as required by M.P.E.P. § 2142. Thus, for at least these reasons, Applicant respectfully requests the Examiner reconsider and withdraw the rejection of claim 14 under 35 U.S.C. § 103.

Further, Applicant submits that the remarks made above apply equally to claims 4-7, 15-18, 19, and 22, each of which depends from either claim 3 or 14. Applicant further submits that the Examiner has failed to make a *prima facie* case that claims 3-7, 14-19, and 22 are unpatentable, as required by M.P.E.P. § 2142. Thus, for at least these reasons, Applicant respectfully requests the Examiner reconsider and withdraw the rejections of claims 3-7, 14-19, and 22 under 35 U.S.C. § 103.

b. Claim 8 is patentably distinguishable over Dowling and Nguyen

Amended claim 8 recites in part:

> determining that a change has occurred to management information base (MIB) information associated with the agent;
>
> in response to determining that the change has occurred to the MIB information associated with the agent, transmitting a trap message to a network management system (NMS); and

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receiving a request to perform a walk operation from the NMS, wherein the walk operation facilitates automatic update of the MIB information associated with the agent.

The Examiner alleged that the previously-claimed features of "an agent checking an object identifier (OID), wherein the agent has access to an agent management information base (MIB)" and "the agent determining that the OID has changed" were disclosed by Dowling at column 21, line 58, column 15, lines 39-45, column 16, lines 8-15, and column 23, lines 40-41. However, these sections of Dowling, some of which were discussed previously, are directed to Dowling's CDP, which is used to identify neighboring devices in a cluster of devices, and the CDP's neighbor linked list. As discussed above, Dowling's linked list is not a MIB. Therefore, Applicant submits that Dowling does not teach or suggest the presently-claimed "determining that a change has occurred to management information base (MIB) information associated with the agent." Applicant further submits that Nguyen does not make up for this deficiency in Dowling.

Further, the Examiner also alleged that the previously-claimed feature of "in response to determining that the OID has changed, the agent transmitting a trap message to a network management system (NMS)" was disclosed in Dowling at column 9, lines 5-14 and Table 1. While Dowling discloses that an "SNMP agent 86 can send traps, or notification of certain events, to the SNMP manager 92" (Dowling, col. 9, lines 9-10), Dowling does not teach a trap being transmitted in response to determining that the MIB has changed. In fact, Dowling does not specify what triggers the SNMP agent to send a trap. Therefore, Applicant submits that Dowling does not teach or suggest the presently-claimed feature of "in response to determining that the change has occurred to the MIB information associated with the agent, transmitting a

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trap message to a network management system (NMS)." Applicant further submits that Nguyen does not make up for this deficiency in Dowling.

Thus, Applicant submits that Dowling and Nguyen do not disclose or suggest the subject matter of claim 8 and thus do not support rejection of claim 8 under 35 U.S.C. § 103. Applicant further submits that the Examiner has failed to make a *prima facie* case that claim 8 is unpatentable, as required by M.P.E.P. § 2142. Thus, for at least these reasons, Applicant respectfully requests the Examiner reconsider and withdraw the rejection of claim 8 under 35 U.S.C. § 103.

Further, Applicant submits that the remarks made above apply equally to claims 9-13, 20, and 21, each of which depends from claim 8. Applicant further submits that the Examiner has failed to make a *prima facie* case that claims 9-13, 20, and 21 are unpatentable, as required by M.P.E.P. § 2142. Thus, for at least these reasons, Applicant respectfully requests the Examiner reconsider and withdraw the rejections of claims 8-13, 20, and 21 under 35 U.S.C. § 103.

IV. Summary of the July 22, 2010 Examiner Interview

A telephonic Examiner Interview took place on July 22, 2010. Participants included Examiner Azizul Q. Choudhury and Applicants' Representative, Michael Borella. Applicants thank the Examiner for conducting the interview.

The participants discussed claims 3, 8, and 14, as well as the Dowling reference. No exhibits were shown, no demonstrations were conducted. During the interview, Applicants' representative asserted that the claims were directed to statutory subject matter under 35 U.S.C. § 101. Applicants' representative also asserted that the Dowling reference did not teach or suggest the claim features of "in response to receiving the trap message, the NMS conducting a walk operation on the agent MIB," "based on a result of the walk operation, the NMS updating

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the NMS MIB," and "in response to determining that the OID has changed, the agent transmitting a trap message to a network management system (NMS)."

Agreement on the claims was not reached.

V. Conclusion

For the foregoing reasons, Applicant submits that all claims are allowable, and Applicant therefore respectfully requests favorable action. Should the Examiner wish to discuss this case with the undersigned, the Examiner is invited to call the undersigned at 312-913-3338.

Respectfully submitted,
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Date: October 1, 2010

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